



City of Seattle

Department of Planning and Development
Diane M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Project Number: 3012192
Applicant Name: Ryan Harasimowicz
Address of Proposal: 1551 Eastlake Avenue E

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to allow a 4,800 square foot deck on the third floor of an existing commercial structure.

Seattle Municipal Code (SMC) requires the following approvals:

Shoreline Substantial Development Permit: to allow development in an Urban Maritime (UM) shoreline environment. (Section 23.60.020 Seattle Municipal Code)

SEPA DETERMINATION: ☒ Exempt ☐ DNS ☐ MDNS ☐ EIS
☐ DNS with conditions
☐ DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND INFORMATION

Site Location: The site is located at the southwest corner of East Garfield Street and Eastlake Avenue East.

Zoning: Industrial, General.

Shoreline Environment: Urban Maritime (UM).

Environmental Critical Areas: The property is mapped as Shoreline Habitat Buffer.

Parcel Size: 62, 889 square feet.

Existing Use: Commercial (permitted on upland lots in the Urban Maritime environment).

Public Comment: The public comment period began June 16, 2011 and ended on July 15, 2011. No comments were received.

The Proposal: The proposal is to construct an exterior deck on the rooftop of the second storey of an existing building. The deck will be accessed from the third story and is located in the southwest corner of the building within 200 feet of the shoreline. New planters' measuring 3.5 feet in height and open cable railings will surround the new deck. All portion of the new deck will be located below the shoreline maximum height limit of 35 feet.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads:

A substantial development permit shall be issued only when the development proposed is consistent with:

- A. The policies and procedures of Chapter 90.58 RCW;
- B. The regulations of this Chapter; and
- C. The provisions of Chapter 173-27 WAC

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and Shoreline Management Act.

A. The Policies and Procedures of Chapter 90.58 RCW

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a shoreline master program, codified in

the Seattle Municipal Code at Chapter 23.60. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

B. The Regulation of Chapter 23.60

Chapter 23.60 of the Seattle Municipal Code is known as the “Seattle Shoreline Master Program.” In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SSMP 23.60.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SSMP 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the shoreline policies established in SSMP 23.60.004, and meet development standards for all shoreline environments established in SMC 23.60.152 as well as the criteria and development standards for the shoreline environment in which the site is located, any applicable special approval criteria and the development standards for specific uses.

Each of these elements is evaluated below in the order they are listed in the Shoreline Master Program. The shoreline designations for the area of work are Urban Residential and Conservancy Recreation (SMC 23.60.220).

SMC 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan’s Land Use Element and the purpose and location criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district. Relevant Goals and Policies of the Comprehensive Plan state:

- LUG43 Protect those areas of shoreline that are geologically dangerous or fragile, or biologically fragile.
- LU246 Protect natural environment through use and development standards governing shoreline activities including best management practices.

The purpose and locational criteria of the Urban Maritime (UM) environment is stated in SMC 23.60.220.C.9. The purpose states:

- The purpose of the UM shoreline environment is to preserve areas for water-dependent and water-related uses while still providing some views of the water from adjacent streets and upland residential streets. Public access shall be second in priority to water-dependent uses unless provided on street ends, parks or other public lands.

The locational criteria states:

- Areas where the underlying zoning is industrial or Commercial 2.
- Areas with sufficient dry land for industrial uses but generally in smaller parcels than in UI environments.
- Areas developed predominantly with water-dependent manufacturing or commercial uses or a combination of manufacturing-commercial and recreational water-dependent uses.
- Areas with concentrations of state waterways for use by commerce and navigation.
- Areas near, but not necessarily adjacent to residential or neighborhood commercial zones which require preservation of views and protection from the impacts of heavy industrialization.

The proposal is to construct an exterior roof-top deck on an existing commercial building located on an upland lot. Planters and railings will be located below the 35 foot maximum height limit. No ground disturbance or changes to the shoreline environment or existing uses is proposed.

SMC 23.60.064 - Procedures for Obtaining Shoreline Substantial Development Permits

This application has followed the procedural requirements for a Master Use Permit as specified in subsection A. SMC 23.60.064 also provides authority for conditioning of shoreline substantial development permits as necessary to carry out the spirit and purpose of and assure compliance with the Seattle Shoreline Code, Chapter 23.60, and with RCW 90.58.020 (State policy and legislative findings).

SMC 23.60.064C. In evaluating whether a development which requires a substantial development permit, conditional use permit, variance permit or special use authorization meets the applicable criteria, the Director shall determine that:

1. The proposed use is not prohibited in the shoreline environment(s) and underlying zone(s) in which it would be located;
2. The development meets the general development standards and any applicable specific development standards set forth in Subchapter III, the development standards for the shoreline environment in which it is located, and any applicable development standards of the underlying zoning, except where a variance from a specific standard has been applied for; and
3. If the development or use requires a conditional use, variance, or special use approval, the project meets the criteria for the same established in Sections 23.60.034, 23.60.036 or 23.60.032, respectively.

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environment. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. These general standards of the SMP state, in part, that all shoreline development and uses shall:

- protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best management practices such as paving and berming of drum storage areas, fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.
- not release oil, chemicals or other hazardous materials onto or into the water.
- be located, designed, constructed, and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas, including but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes;
- be located, designed, constructed and managed to minimize interference with, or adverse impacts to, beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion;
- be located, designed, constructed, and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area; and
- be located, constructed, and operated so as not to be a hazard to public health and safety.

SMC 23.60.750- Development Standards for UM Environment

The development standards set forth in the Urban Maritime Shoreline Environment regulate uses; height, lot coverage; and public access.

The proposal is to construct an exterior roof-top deck on an existing commercial building located on an upland lot. Planters and railings will be located below the 35 foot maximum height limit. No ground disturbance or changes to the shoreline environment or existing uses is proposed.

The proposal must comply with the Building Code, Drainage Code, Grading Code and Environmental Critical Areas Ordinance. No conditional use or variance is required. The proposal meets the development standards of the UM environment. Therefore the proposal meets the general development standards, specific development standards set forth in Subchapter III, development standards of the shoreline environment and any applicable development standards of the underlying zone.

C. The Provisions of Chapter 173-27 WAC

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). Since DOE has approved the Seattle Shoreline Master Program, any project consistent with the criteria and procedures of SMC Chapter 23.60 is also consistent with WAC 173-14 and RCW 90.58.

CONCLUSION

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms to the policies and procedures of the WAC, RCW and with the regulations of Chapter 23.60, Seattle Shoreline Master Program. The specific standards for development in the shoreline environment will be met by the proposed development.

Pursuant to the Director's authority under Seattle's Shoreline Master Program to ensure that development proposals are consistent with the policies and procedures, and conform to specific development standards of the underlying zone, and having established that the proposed use and development are consistent with the Seattle Shoreline Program, the proposal is approved.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

The Shoreline Substantial Development permit, as detailed in plans submitted to DPD dated June 10, 2011 and revised on September 8, 201, is **GRANTED**.

Signature: (signature on file)
Stephanie Haines, Senior Land Use Planner
Department of Planning and Development

Date: September 26, 2011